

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA

AT BECKLEY

CHARLES GATES,

Petitioner,

v.

CIVIL ACTION NO. 5:24-cv-00385

WARDEN W. HOLZAPFEL,

Respondent.

**ORDER**

Pending are Petitioner Charles Gates' Petition for Writ of Habeas Corpus [ECF 1] and Motion for Jail Time Credit and Concurrent Sentences [ECF 2], filed July 26, 2024. This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R [ECF 19] on February 10, 2025. Magistrate Judge Tinsley recommends that the Court (1) find that, having now received a *nunc pro tunc* designation, Mr. Gates has received the prior custody credit he sought and that his sentence has been properly executed under 18 U.S.C. § 3585, (2) deny as moot Mr. Gates' § 2241 petition [ECF 1] and Motion for Jail Time Credit and Concurrent Sentences [ECF 2], and (3) dismiss this civil action from the docket of the court.

The Court need not review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis

added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on February 27, 2025. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [ECF 19], **FINDS** that, having now received a *nunc pro tunc* designation, Mr. Gates has received the prior custody credit he sought and that his sentence has been properly executed under 18 U.S.C. § 3585, **DENIES as moot** Mr. Gates' § 2241 petition [ECF 1] and Motion for Jail Time Credit and Concurrent Sentences [ECF 2], and **DISMISSES** this matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: February 28, 2025



*Frank W. Volk*

Frank W. Volk  
Chief United States District Judge